

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE RALPH LEO BRUTSCHE,

Debtor.

RALPH LEO BRUTSCHE,

Appellant,

v.

UNITED STATES TRUSTEE, MARC LOUIS LIBERMAN, BANK OF AMERICA, N.A., as Trustee of the Marc Louis Liberman Trust, established under the Marguerite Liberman Revocable Trust, u/t/a dated March 10, 1981 as thereafter amended and restated September 20, 1989, as amended March 27, 1990; as Trustee of the Michele Louise Liberman Revocable Trust, u/t/a dated April 4, 1979 as amended, HELEN A. GREVEY, MARIANNE FISCHER, FRANCES S. LIBERMAN, WELLS FARGO BANK, N.A., a national banking association, as Co-Trustees of the Ira L. Liberman and Frances S. Liberman Revocable Trust, u/t/a/ dated January 12, 1993, EILEEN GREVEY HILLSON, as Trustee under Lisa Marie Clifford Trust #1 dated May 4, 1994; as Trustee under Sean David Clifford Trust #1 dated May 4, 1994; as Trustee under the Jack and Joanne M. Grevey Trust for the Benefit of Lisa Marie Clifford, DOT December 19, 1983; as Trustee under the Jack and Joanne M. Grevey Trust for the Benefit of Sean David Clifford, DOT December 19, 1983, also known as Eileen Grevey, LOS ALAMOS NATIONAL BANK, J. BERNARDO RODRIGUEZ, RODRIGUEZ PERFECTO, ROSARITA CRUZ, ANNA BERTHA MAYFIELD, ANGELA MEJIA, VICTOR RODRIGUEZ, ROBERT R.

BAP No. NM-12-016

Bankr. No. 11-13326
Chapter 11

ORDER DISMISSING APPEAL

July 6, 2012

TRUJILLO, and SANTA FE SUMMIT
HOMEOWNERS ASSOCIATION,

Appellees.

Before THURMAN, Chief Judge, KARLIN, and ROMERO, Bankruptcy Judges.

The matter before the Court is pro se Appellant Ralph Leo Brutche's Request for Extension of 15 Days Additional Time for Completing and Filing of Appendix to Appellant's Brief - In Conformance With Fed. R. Bankr. P. 8009(b) and 10th Cir. BAP L.R. 8009-3, filed June 27, 2012 ("Motion").

Appellant's brief and appendix was due on June 11, 2012. Appellant timely filed his opening brief, but did not file an appendix pursuant to Federal Rule of Bankruptcy Procedure 8009(b) and the 10th Circuit BAP Local Rule 8009-3. Consequently, on June 13, 2012, this Court sent Appellant a Notice of Deficiency and ordered, *inter alia*, that the appeal would be dismissed unless Appellant filed his appendix by June 27, 2012.

On June 27, 2012, Appellant filed the Motion, requesting a fifteen day extension to complete and file his appendix. The Motion, however, was not accompanied by a certificate of service as required by Federal Rules of Bankruptcy Procedure 8008(d) and 8011(a) and 10th Circuit BAP Local Rule 8008-1(c); this is noted in the docket text for the Motion. *See* BAP Appeal No. NM-12-016, docket entry no. 40 (the motion was "not accompanied by proof of service."). Service of court papers and proof of such service is critical to any court proceeding, and accordingly without such, the Motion is ineffective and the Court cannot consider it. *See* Fed. R. Bankr. P. 8008(d) & 8011(a); 10th Cir. BAP L.R. 8008-1(c).

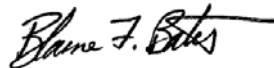
As Appellant has still not filed the appendix and the time to do so has expired, this appeal must be dismissed for failure to prosecute. The dismissal will

be subject to Appellant's right to cure during the rehearing period as set forth in Federal Rule of Bankruptcy Procedure 8015, after which time our mandate will issue, divesting this Court of jurisdiction over this appeal.

Accordingly, it is HEREBY ORDERED that:

- (1) No action will be taken on the Motion.
- (2) This appeal is DISMISSED for failure to prosecute. Fed. R. Bankr. P. 8001(a); 10th Cir. BAP L.R. 8018-4(c).

For the Panel:

A handwritten signature in black ink, appearing to read "Blaine F. Bates", with a stylized flourish at the end.

Blaine F. Bates
Clerk of Court